

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RECEIVED
FEB 23 2005

LOUIS G. RASETTA and JOHN J. SHAUGHNESSY,
as they are TRUSTEES, INTERNATIONAL UNION
OF OPERATING ENGINEERS LOCAL 4 HEALTH
AND WELFARE, PENSION AND ANNUITY FUNDS,
and LOUIS G. RASETTA and CHRISTOPHER
BARLETTA, as they are TRUSTEES, HOISTING AND
PORTABLE ENGINEERS LOCAL 4 APPRENTICE
AND TRAINING FUNDS and INTERNATIONAL
UNION OF OPERATING ENGINEERS, LOCAL 4,
Plaintiffs

vs.

PENNEY CONSTRUCTION CORP.,
Defendant

and

T.R. WHITE CO., INC.,
Reach-and-Apply Defendant

and

SOVEREIGN BANK,
Trustee

04 - 12463 MLW

MAGISTRATE JUDGE Dein

C.A. No.

RECEIPT # _____
AMOUNT \$ 150
SUMMONS ISSUED yes
LOCAL RULE 4.1 1
WAIVER FORM _____
MCF ISSUED _____
BY DPTY. CLK. F.O.M.
DATE 11/22/04

COMPLAINT

NATURE OF ACTION

1. This is an action brought pursuant to §§502 and 515 of the Employee Retirement Income Security Act of 1974 ("ERISA"), as amended, 29 U.S.C. §§1132(a)(3) and (d)(1) and 1145 and §301 of the Labor Management Relations Act, 29 U.S.C. §185 by employee benefit

plans and a labor union to enforce the obligations to make contributions and pay interest due to such plans due under the terms of a collective bargaining agreement and the plans.

JURISDICTION

2. The Court has exclusive jurisdiction of this action pursuant to §502(a), (e) and (f) of ERISA, 29 U.S.C. §§1132(a), (e) and (f), without respect to the amount in controversy or the citizenship of the parties.

PARTIES

3. Plaintiffs Louis G. Rasetta and John J. Shaughnessy are Trustees of the International Union of Operating Engineers Local 4 Health and Welfare Fund. The International Union of Operating Engineers Local 4 Health and Welfare Fund is an “employee welfare benefit plan” within the meaning of §3(3) of ERISA, 29 U.S.C. §1002(3). The Fund is administered at 177 Bedford Street, Lexington, Massachusetts, within this judicial district.

4. Plaintiffs Louis G. Rasetta and John J. Shaughnessy are Trustees of the International Union of Operating Engineers Local 4 Pension Fund. The International Union of Operating Engineers Local 4 Pension Fund is an “employee pension benefit plan” within the meaning of §3(2) of ERISA, 29 U.S.C. §1002(2)(A). The Fund is administered at 177 Bedford Street, Lexington, Massachusetts, within this judicial district.

5. Plaintiffs Louis G. Rasetta and John J. Shaughnessy are Trustees of the International Union of Operating Engineers Local 4 Annuity Fund. The International Union of Operating Engineers Local 4 Annuity Fund is an “employee pension benefit plan” within the meaning of §3(2)(A) of ERISA, 29 U.S.C. §1002(2)(A). The Fund is administered at 177 Bedford Street, Lexington, Massachusetts, within this judicial district.

6. Plaintiffs Louis G. Rasetta and Christopher Barletta are Trustees of the Hoisting and Portable Engineers Local 4 Apprenticeship and Training Fund. The Hoisting and Portable Engineers Local 4 Apprenticeship and Training Fund is an "employee welfare benefit plan" within the meaning of §3(1) of ERISA, 29 U.S.C. §1002(1). The Fund is administered at One Engineers Way, Canton, Massachusetts, within this judicial district.

7. The Health and Welfare, Pension, Annuity, Apprenticeship and Training Funds are multi-employer plans within the meaning of §3(37) of ERISA, 29 U.S.C. §1002(37). They are hereinafter collectively referred to as "the Funds."

8. Defendant Penney Construction Corp. (hereinafter "Penney" or "the Employer") is a Massachusetts corporation with a principal place of business at 85 Charles Street, Bridgewater, Massachusetts, and is an employer engaged in commerce within the meaning of §3(5) and (12) of ERISA, 29 U.S.C. §1002(5) and (12).

9. Reach-and-Apply Defendant T.R. White Co., Inc. (hereinafter "T.R. White") is a Massachusetts corporation with a principal place of business at 368 Congress Street, South Boston, Massachusetts. Upon information and belief, Penney worked as a subcontractor to T.R. White on the Milton, Massachusetts project that is the subject of this suit. The Funds have a legal or equitable interest in any payments due Penney from T.R. White for work conducted on this or any other project.

10. Sovereign Bank, on information and belief, is holding assets of the defendant.

GENERAL ALLEGATIONS OF FACT

11. On or about June 30, 1997, defendant Penney agreed in writing to be bound to the terms of the Restated Agreements and Declarations of Trust establishing Plaintiff Funds, to the terms of collective bargaining agreements requiring contributions to Plaintiff Funds; and to any

successor agreements. A copy of Penney's signed agreement ("short form agreement") is attached hereto as Exhibit A.

12. Because of the short form agreement, Penney has been a party to successive collective bargaining agreements with the International Union of Operating Engineers Local 4, including the agreement which is effective from June, 1999 through May, 2005 ("the Agreement"). A copy of the relevant portions of this Agreement is attached hereto as Exhibit B.

13. The Agreement requires Penney to make contributions to Plaintiff Funds for each payroll hour for each person covered by the Agreement.

14. Pursuant to the Agreement, employers are also obligated to deduct and remit a negotiated percentage of the gross wage package, before taxes, for union dues.

**COUNT I - VIOLATION OF ERISA -
DELINQUENT CONTRIBUTIONS**

15. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1-14 supra.

16. Using remittance reports, the Funds determined that Penney owes \$15,478.18 in unpaid fringe benefit contributions and dues for work done on a Milton, Massachusetts project for the period August, 2003 through January, 2004.

17. By letter dated September 2, 2004, the Funds' attorney sought payment of these delinquent contributions and interest owed thereon. A copy of that letter is attached hereto as Exhibit C.

18. To date, Penney has failed to pay the Funds the \$15,478.18 in contributions and dues owed for the period August, 2003 through January, 2004. It has also failed to pay the interest owed.

19. The failure of Penney to make contributions on behalf of all covered employees as required by the terms of the Funds and the collective bargaining agreements violates §515 of ERISA, 29 U.S.C. §1145.

20. Absent an order from this Court, the defendant will continue to refuse to pay the monies it owes to the Funds, as determined at the audit, and the Funds and their participants will be irreparably damaged.

21. A copy of this Complaint is being served upon the Secretary of Labor and the Secretary of the Treasury by certified mail as required by §502(h) of ERISA, 29 U.S.C. §1132(h).

**COUNT II - VIOLATION OF LMRA -
DELINQUENT CONTRIBUTIONS AND INTEREST**

22. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1-21 supra.

23. The failure of Penney to make contributions on behalf of all covered employees and to pay interest as required by the terms of the collective bargaining agreement violates §301 of the Labor Management Relations Act, 29 U.S.C. §185.

COUNT III - VIOLATION OF LMRA DUES

24. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1-23 supra.

25. Upon information and belief, Penney deducted dues from its employees' paychecks and failed to remit them to the Union.

26. The failure of Penney to remit the dues it deducted from its employees' wages as required by the terms of the collective bargaining agreement violates §301 of the Labor Management Relations Act, 29 U.S.C. §185.

COUNT IV - REACH-AND-APPLY AGAINST T.R. WHITE CO., INC.

27. Plaintiffs incorporate by reference each and every allegation set forth in paragraphs 1-26 supra.

28. Upon information and belief, Penney worked as a subcontractor to T.R. White on the Milton, Massachusetts project that is the subject of this suit. The Funds have a legal or equitable interest in any payments due Penney from T.R. White for work conducted on this or any other project.

29. Further, there is no known insurance available to satisfy the judgment the Funds will obtain against Penney.

30. The funds held by T.R. White cannot be attached or taken on execution except pursuant to G.L. c. 214, §3(6).

RELIEF REQUESTED

WHEREFORE, Plaintiff Funds requests this Court to grant the following relief:

- a. Order the attachment of the machinery, inventory and accounts receivable of defendant Penney;
- b. Order the attachment by trustee process of the bank accounts of Penney held by Sovereign Bank;
- c. Enter a preliminary and permanent injunction enjoining Penney from refusing or failing to make contributions and pay dues and interest to Plaintiff Funds;
- d. Enter judgment in favor of the Plaintiff Funds in the amount of \$15,478.18 plus any additional amounts determined by the Court to be owed by Penney or which may become due during the pendency of this action, together with interest on the unpaid contributions at the rate prescribed under §6621 of the Internal Revenue Code, liquidated damages in an amount

equal to 20 percent of the total of unpaid contributions or the total interest owed, whichever is greater, reasonable attorneys' fees, and costs, all pursuant to 29 U.S.C. §1132(g)(2);

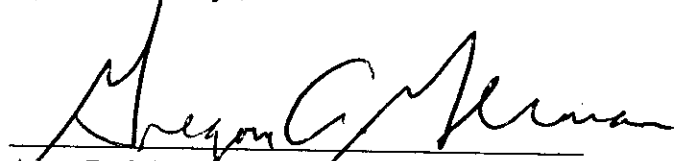
e. Enter a temporary restraining order against T.R. White and its agents, servants, employees, attorneys, and upon those persons in active participation or concert with them and those persons acting at their command who receive actual notices of this order by personal service or otherwise, and each and every one of them, from secreting, concealing, destroying, damaging, selling, transferring, pledging, encumbering, assigning, or in any way or manner disposing of or reducing the value of, or making any payment to Penney on account of sums that are due or will hereafter become due Penney from T.R. White; and

f. Such further and other relief as this Court deem appropriate.

Respectfully submitted,

LOUIS G. RASETTA and JOHN J.
SHAUGHNESSY, as they are TRUSTEES,
INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 4
HEALTH AND WELFARE FUND, et al,

By their attorneys,



Anne R. Sills, Esquire

BBO #546576

Gregory A. Geiman, Esquire

BBO #655207

Segal, Roitman & Coleman

11 Beacon Street

Suite #500

Boston, MA 02108

(617) 742-0208

Dated: November 19, 2004

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. TITLE OF CASE (NAME OF FIRST PARTY ON EACH SIDE ONLY) Louis G. Rasetta and John H. Shaughnessy,
as they are Trustees, I.U.O.E. Local 4 Health and Welfare Funds, et al vs. Penney
Construction Corp. and Reach-and-Apply Defendant T.R. White Co., Inc.
2. CATEGORY IN WHICH THE CASE BELONGS BASED UPON THE NUMBERED NATURE OF SUIT CODE LISTED ON THE
CIVIL COVER SHEET. (SEE LOCAL RULE 40.1(A)(1)).

— I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.

X II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730,
740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 920.

*Also complete AO 120 or AO 121
for patent, trademark or copyright cases

— III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 250, 310,
315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371,
380, 385, 450, 891.

— IV. 220, 421, 423, 430, 440, 510, 530, 610, 620, 630, 640, 650, 660,
690, 810, 861-865, 870, 871, 875, 900.

— V. 150, 152, 153.

3. TITLE AND NUMBER, IF ANY, OF RELATED CASES. (SEE LOCAL RULE 40.1(E)).

N/A

4. HAS A PRIOR ACTION BETWEEN THE SAME PARTIES AND BASED ON THE SAME CLAIM EVER BEEN FILED IN THIS
COURT? YES ☐ NO ☒

5. DOES THE COMPLAINT IN THIS CASE QUESTION THE CONSTITUTIONALITY OF AN ACT OF CONGRESS AFFECTING THE
PUBLIC INTEREST? (SEE 28 USC 2403) YES ☐ NO ☒

IF SO, IS THE U.S.A. OR AN OFFICER, AGENT OR EMPLOYEE OF THE U.S. A PARTY?

YES ☐ NO ☐

6. IS THIS CASE REQUIRED TO BE HEARD AND DETERMINED BY A DISTRICT COURT OF THREE JUDGES PURSUANT TO
TITLE 28 USC 2284? YES ☐ NO ☒

7. DO ALL PARTIES IN THIS ACTION RESIDE IN THE CENTRAL SECTION OF THE DISTRICT OF MASSACHUSETTS
(WORCESTER COUNTY) - (SEE LOCAL RULE 40.1(C)). YES ☐ NO ☒

OR IN THE WESTERN SECTION (BERKSHIRE, FRANKLIN, HAMPDEN OR HAMPSHIRE COUNTIES)? -

(SEE LOCAL RULE 40.1(D)).

YES ☐ NO ☒

8. DO ALL OF THE PARTIES RESIDING IN MASSACHUSETTS RESIDE IN THE CENTRAL AND/OR WESTERN SECTIONS OF
THE DISTRICT? YES ☐ NO ☒

(a) IF YES, IN WHICH SECTION DOES THE PLAINTIFF RESIDE?

9. IN WHICH SECTION DO ONLY PARTIES RESIDING IN MASSACHUSETTS RESIDE? N/A

10. IF ANY OF THE PARTIES ARE THE UNITED STATES, COMMONWEALTH OF MASSACHUSETTS, OR ANY GOVERNMENTAL
AGENCY OF THE U.S.A. OR THE COMMONWEALTH, DO ALL OTHER PARTIES RESIDE IN THE

CENTRAL SECTION: YES ☐ NO ☐ N/A OR WESTERN SECTION: YES ☐ NO ☐

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Gregory A. Geiman

ADDRESS Segal, Roitman & Coleman, 11 Beacon Street, Suite #500, Boston, MA 02108

TELEPHONE NO. (617) 742-0208

(Caption rev. 3/97)

04-19463MLW

JS 44
(Rev. 12/96)**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

LOUIS G. RASETTA and JOHN J. SHAUGHNESSY, as they are TRUSTEES, INTERNATIONAL UNION OF OPERATING ENGINEERS LOCAL 4 HEALTH AND WELFARE, PENSION AND ANNUITY FUNDS, and LOUIS G. RASETTA and CHRISTOPHER BARLETTA, as they are TRUSTEES, HOISTING AND PORTABLE ENGINEERS LOCAL 4 APPRENTICE AND TRAINING FUNDS and INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 4,

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

Anne R. Sills, Esquire
Segal, Roitman & Coleman
11 Beacon Street, Suite #500
Boston, MA 02108

DEFENDANTS

Penney Construction Corp. and Reach-and-Apply Defendant T.R. White Co., Inc.

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

ATTORNEYS (IF KNOWN)

II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

- ☐ 1 U.S. Government Plaintiff
☐ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|--------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> |

IV. ORIGIN

(PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify) _____
☐ 6 Multidistrict Litigation
☐ 7 Appeal to Dist. Judge from Magistrate Judgment

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice Act <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence HABEAS CORPUS: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input checked="" type="checkbox"/> 781 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 -A- 1395R <input type="checkbox"/> 862 Back Log 1923 <input type="checkbox"/> 863 DWC/DWW (405(g)) <input type="checkbox"/> 864 SSD Title XVI <input type="checkbox"/> 865 PS 405(g) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

This is a claim to collect unpaid benefit fund contributions, brought pursuant to ERISA, 29 U.S.C. Sec. 1132.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
☐ UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint

JURY DEMAND: ☐ YES ☐ NO**VIII. RELATED CASE(S)** (See instructions):
IF ANY N/A

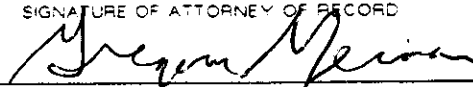
JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

11/19/04



FOR OFFICE USE ONLY

RECEIVED: _____ AMOUNT: _____ APPLYING FEE: _____ JUDGE: _____ MAG. JUDGE: _____

AGREEMENT covering wages, working rules, and other conditions of employment entered into between Penney Construction Corp. and International Union of Operating Engineers Local 4 and its Branches.

1. The Local is recognized as the sole and exclusive representative of the employees covered by this Agreement for the purpose of collective bargaining with respect to wages, hours of work, and other conditions of employment. The Employer shall not make any agreement in conflict with the provisions of this Agreement.

2. The Employer hereby adopts and agrees to abide by all of the terms and conditions of the Collective Bargaining Agreement now prevailing or as they shall prevail by and between Local 4 and the four Employer Associations hereinafter named.

The Associations are:

Labor Relations Division of Construction Industries of Mass.
Associated General Contractors of Massachusetts, Inc.
Building Trades Employers Association of Boston and Eastern Mass.
Foundation & Marine Contractors Association of New England, Inc.

3. The Local agrees to comply with all union obligations contained in the aforementioned Collective Bargaining Agreements.

4. The Collective Bargaining Agreements between the Employer Associations and the Local provides, among other things, for contributions to the Health and Welfare Fund, Pension Fund, Apprentice and Training Fund, and Annuity Fund, and the Employer agrees to be bound by the terms of the respective Agreements and Declarations of Trust and designates as its representatives on the Boards of Trustees such Trustees as have been designated Employer Trustees in the manner provided in the Agreements and Declarations of Trust.

5. This Agreement shall be binding upon the Employer named herein, and its successors and assigns, and no provisions herein contained shall be nullified or affected in any manner as a result of any consolidation, sale, transfer, assignment, joint venture, or any combination or other disposition of the Employer.

6. The life of this Agreement is co-extensive with the several respective terms set out or as they shall be set out from time to time in the aforementioned Collective Bargaining Agreement with the named Associations, and shall continue in effect in each or any particular said contract instance, unless the Employer gives the Local notice of desired change or termination of a particular Collective Bargaining Agreement aforementioned in keeping with the applicable notice provisions contained therein. The Employer acknowledges and agrees to the continuity of Employer obligations on his part with respect to Health and Welfare, Pension, Apprentice Training and Annuity Trusts contained in said aforementioned Collective Bargaining Agreements pending negotiations of any new agreement by and between the Local and the aforementioned Associations and/or between the Employer and the Local.

WITNESS OUR HAND AND SEAL THIS 30th DAY OF June, 1997

FOR THE EMPLOYER

Penney Construction Corp.
COMPANY

85 Charles St.
ADDRESS

Bridgewater Mass. 02324
CITY STATE ZIP

Harold H. Penney, Jr. Pres.
BY TITLE

508-697-3417
TELEPHONE NUMBER

FOR THE LOCAL

William C. Ryan
BUSINESS MANAGER

James T. Griffith
PRESIDENT

Louis B. Raitta
RECORDING SECRETARY

BODY ACCEPTS

7/16/97

EMMS BD REC

7/9/97

1999-2003
MASTER DOCUMENT
with
CONTRACT EXTENSION
to May 31, 2005
and
Provisions of the Agreements
between



**INTERNATIONAL UNION OF
OPERATING ENGINEERS
Local 4 and its Branches**
and
**Labor Relations Division of
Construction Industries of Massachusetts
Foundation & Marine Contractors
Association of New England, Inc.
Building Trades Employers Association
of Boston and Eastern Massachusetts
Labor Relations Division of the
Associated General Contractors of
Massachusetts, Inc.**

PART TWO MASTER DOCUMENT

Part Two - Article XI HEALTH & WELFARE, PENSION, ANNUITY, ANNUITY & SAVINGS COOPERATIVE TRUST AND APPRENTICE PROGRAM FUNDS

Section 1. Each Employer who is a party to this Agreement agrees to and shall pay and contribute an amount equal to that shown under "Schedule of Wages" in this Agreement to the following Funds:

(a) International Union of Operating Engineers Local 4 Health and Welfare Fund, hereinafter referred to as the "Welfare Fund."

(b) International Union of Operating Engineers Local 4 Pension Fund, hereinafter referred to as the "Pension Fund."

(c) International Union of Operating Engineers Local 4 Annuity and Annuity & Savings 401(k) Fund, hereinafter referred to as the "Annuity and Annuity & Savings Funds."

(d) Hoisting and Portable Engineers Local 4 Apprentice and Training Program, hereinafter referred to as the "Apprentice Program Fund."

(e) International Union of Operating Engineers Local 4 Labor Management Cooperative Trust, hereinafter referred to as the "Cooperative Trust."

Section 2. The respective rates per hour as shown in the "Schedule of Wages" in the Agreement shall be paid for each payroll hour (with the exception of Annuity contributions, an overtime hour for this purpose shall be considered a single hour) and proportionately for each part of such an hour for each person covered by this Agreement and employed on construction projects on which the Employer shall be engaged or otherwise in the hire of the Employer. Overtime contributions to the Annuity Fund shall be paid at time and one-half for all classifications of overtime.

(a) Upon proper written authorization on a form furnished by the Local Union, the Employer may withhold from the employee's gross wage before any deduction for taxes, an amount as established from time to time by the Annuity Trustees, for deposit in the Annuity & Savings 401(k) Plan, a Retirement Plan intended to qualify under the Employee Retirement Income Security Act of 1974 (ERISA).

Section 3. On or before the tenth day of each month, the said payment shall be due and payable for all such payroll periods ending the next preceding month; but in the case of operations of less than a month's duration, or in the case of Employers who are repeatedly delinquent in payments, the payment shall be due weekly and payable within three (3) days after the end of the payroll week.

Section 4. Payments not received at the Fund Office by the last day of the month following the

month during which the work was performed will be assessed interest at the rate of one (1%) percent per month.

Section 5. The Employer agrees that the obligations to make payments shall be on a parity with and enforceable, with respect to each Fund, as the obligation to pay wages, and this inclusive of the priorities incident to and in proceedings for the relief of debtors; and this Article shall bind all legal representatives, successors, and assigns of an Employer.

Section 6. The Trustees, or representatives when authorized by the Trustees in each case, shall have the right to inspect at all reasonable times, the individual payroll records and such other records of an Employer as are deemed necessary and pertinent to determine whether such Employer is making due and full payment of its Employer Contributions.

Section 7. Failure of the Employer to comply with this Article or any part thereof may be treated by the Local as a breach of the working agreement between the Local and the defaulting Employer; and notwithstanding other provisions of this Agreement (Arbitration Article XVII, or otherwise to the contrary, immediate work stoppage and use of picket lines against such defaulting Employer are permitted. Any cost, inclusive of legal fees, incurred by the Local, or the Funds, in the collection of obligations to make payment due the Welfare, Pension, Annuity, Annuity & Savings, Cooperative Trust and Appren-

tice Program Funds shall be borne by the defaulting Employer.

Section 8. Notwithstanding any termination or cancellation under this Agreement or otherwise, the obligations of this Article and of the several Declarations of Trust shall be deemed continuous and the Health and Welfare Fund, Pension Fund, Annuity Fund, Annuity & Savings Fund, Cooperative Trust and Apprentice Program Fund shall not be discontinued pending negotiations of a new Agreement.

Section 9. The Health & Welfare, Pension, Annuity, Annuity & Savings, Cooperative Trust and Apprentice Program Funds shall be respectively administered by three (3) Trustees appointed and/or elected by the Local and three (3) Trustees appointed by the Association (unless it shall be mutually agreed to decrease the number of Trustees or to consolidate the Welfare Fund, Pension Fund, Annuity Fund, Annuity & Savings Fund, Cooperative Trust and Apprentice Program Fund with the Funds respective of other similar Funds) under one or more Agreements and Declarations of Trust as they are or shall be executed by such Trustees.

Section 10. The Welfare Fund shall be used for the purpose of providing health and welfare benefits for employees covered by this Agreement and their dependents by means of insurance or otherwise at the discretion of the Trustees.

Section 11. The Pension Fund shall be used for the purpose of providing pension benefits for employees

covered by this Agreement by means of insurance or otherwise at the discretion of the Trustees.

Section 12. The Annuity Fund shall be used for the purpose of providing pension benefits for employees covered by this Agreement by means of Annuity contracts or otherwise at the discretion of the Trustees.

Section 13. The Annuity & Savings 401(k) Fund shall be used to assist the members in attaining their savings objectives.

Section 14. The Apprentice Program Fund shall be used for the purpose of providing and defraying costs of apprenticeship or other training programs.

Section 15. The Cooperative Trust shall be used for the purposes set forth in the Trust Agreement establishing said Trust.

Section 16. An Employer shall have the option of contributing or not contributing to the Joint Labor/Management Cooperative Trust and/or the Foundation For Fair Contracting of Massachusetts as provided herein. In the event the Employer opts not to contribute to either or both of the above named Funds, the amount of such contribution shall be added to the hourly wage rates contained herein. Each signatory Association may exercise this option for its members; non-association Employers shall exercise this option on an individual basis.

Section 17. From time to time the Building Committee, established to provide for increased industry requirements, shall determine what additional

Employer contributions, if any, are required to keep the Apprentice Program Fund fiscally sound.

Part Two - Article XIII

LIABILITY INSURANCE

Each Employer shall, without cost to the employee, provide Liability Insurance coverage in the amount of \$300,000 to \$500,000 for all employees covered by this Agreement.

Part Two - Article XIII

**OVERLOADED OR IMPROPERLY
REGISTERED VEHICLES**

Section 1. No employee shall be held responsible for equipment not properly registered or because a permit was not obtained under any applicable law or regulation or for overloading a vehicle or for operating a vehicle or other equipment which is overloaded. In any such case, the Employer will assume the legal costs involved in the defense of the employee and shall pay any fines or other assessments levied against the employee. The Employer shall reimburse the employee for any working time lost in connection with any such proceeding.

Section 2. In the event the employee's operating license is suspended for reasons stated herein, the Employer shall be liable for the work opportunity lost at no less than his regular earnings.

Part Two - Article XXIII
TERMINATION

The terms and conditions of the Agreements between the Labor Relations Division - Construction Industries of Massachusetts, the Foundation & Marine Contractors Association of New England, Inc., the Building Trades Employers Association of Boston and Eastern Massachusetts, the Labor Relations Division of the Associated General Contractors of Massachusetts, Inc., and the International Union of Operating Engineers Local 4 and its Branches, effective June 1, 1999, shall continue to and include May 31, 2003. These Agreements shall continue to be effective from year to year thereafter unless either party to an Agreement, at least sixty (60) days prior to May 31, 2003, or prior to May 31st in any year thereafter gives notice in writing to the other party of its intention to terminate said Agreements and request that negotiations be entered into for its alteration or amendment.

In the event that the parties hereto cannot reach an agreement at least thirty (30) days prior to May 31st of any year, such party shall give notice of the failure to reach such agreement to the Federal Mediation Service and the Massachusetts Board of Conciliation and Arbitration.

FOR THE EMPLOYERS

The Labor Relations Division
Construction Industries of Massachusetts, Inc.

The Foundation & Marine
Contractors Association of New England, Inc.

The Building Trades Employers
Association of Boston and
Eastern Massachusetts, Inc.

The Labor Relations Division
Associated General Contractors of
Massachusetts, Inc.

FOR THE UNION

William P. Ryan, Business Manager

Business Representatives

Paul J. Hayes

Robert W. Leatherbee

John C. Panaro

Louis G. Rasetta

Kevin N. Ryan

Norman A. Teed

Stephen L. Wyman

INTERNATIONAL UNION of OPERATING ENGINEERS - LOCAL #4

Wage Settlement June 1, 1999 - May 31, 2003

WAGE SCHEDULE EFFECTIVE 12/01/99

MASSACHUSETTS

Classification	6/1/99*	12/1/99*	6/1/00*	12/1/00*	6/1/01*	12/1/01*	6/1/02*	12/1/02*
GROUP I	\$26.77	\$27.01	\$27.79	\$28.53	\$29.41	\$30.29	\$31.27	\$32.25
Daily Rate (Per Hour)	29.96	30.29	31.16	32.00	32.99	33.97	35.07	36.17
GROUP Ia (Boom length)								
Over 150 feet	\$ 1.17	\$ 1.21	\$ 1.24	\$ 1.28	\$ 1.32	\$ 1.35	\$ 1.40	\$ 1.44
Over 185 feet	2.06	2.12	2.18	2.24	2.31	2.38	2.45	2.53
Over 210 feet	2.89	2.97	3.06	3.14	3.24	3.34	3.45	3.55
Over 250 feet	4.38	4.51	4.64	4.77	4.91	5.06	5.23	5.39
Over 295 feet	6.07	6.24	6.42	6.60	6.81	7.01	7.24	7.46
Over 350 feet	7.07	7.27	7.48	7.69	7.93	8.16	8.43	8.69
GROUP Ib	\$29.96	\$30.29	\$31.16	\$32.00	\$32.99	\$33.97	\$35.07	\$36.17
GROUP Ic	\$27.77	\$28.01	\$28.79	\$29.53	\$30.41	\$31.29	\$32.27	\$33.25
GROUP II	\$26.60	\$26.83	\$27.61	\$28.34	\$29.21	\$30.09	\$31.06	\$32.04
GROUP III	\$21.11	\$21.19	\$21.80	\$22.38	\$23.07	\$23.76	\$24.52	\$25.29

Classification	6/1/99*	12/1/99*	6/1/00*	12/1/00*	6/1/01*	12/1/01*	6/1/02*	12/1/02*
GROUP IV	\$23.69	\$23.85	\$24.54	\$25.18	\$25.96	\$26.74	\$27.60	\$28.47
a. Fireman	17.84	17.83	18.34	18.82	19.40	19.98	20.62	21.27
b. Other than TC/Gradall	19.42	19.46	20.02	20.54	21.17	21.81	22.51	23.22
c. TC or Gradall	20.99	21.07	21.67	22.24	22.93	23.61	24.38	25.14
d. Daily Rate (TC)	20.91	20.98	21.59	22.15	22.83	23.52	24.28	25.04
e. Scow Rate								
Daily Rate Differential	\$ 2.28	\$ 2.35	\$ 2.42	\$ 2.48	\$ 2.56	\$ 2.64	\$ 2.72	\$ 2.81
GROUP II	\$ 1.44	\$ 1.48	\$ 1.52	\$ 1.57	\$ 1.62	\$ 1.66	\$ 1.72	\$ 1.77
GROUP III	\$ 1.77	\$ 1.82	\$ 1.87	\$ 1.92	\$ 1.98	\$ 2.04	\$ 2.11	\$ 2.18
Tunnel Differential	4.00	4.00	4.00	4.00	4.00	4.00	4.00	4.00
Health & Welfare	3.82	3.82	3.82	3.82	3.82	3.82	3.82	3.82
Pension	0.30	0.30	0.30	0.35	0.35	0.35	0.35	0.35
Apprenticeship	2.50	3.00	3.00	3.00	3.00	3.00	3.00	3.00
Annuity	0.02	0.02	0.02	0.02	0.02	0.02	0.02	0.02
Foundation for Fair Contracting	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits
Joint Labor/Management Cooperation Trust								

OTHER: Dues Assessment: 1 1/4% deducted from total Wage and Benefit Package; Social and Political Action Committee, 5¢ per hour.

*The Local may, at its option, utilize parts of these increments for increases to Health & Welfare, Pension, Annuity, Social and Political Action Committees, Dues Deduction, and the Foundation for Fair Contracting.

GROUP I**

Alpine Miners	Crusher Plants on site	Mechanical Hoist	Shaft Hoists
Asphalt Plant on site	Derrick Boats	Pavement Breakers	Shovel Dozers
Augers & Lo-Drills	Derricks	Micro-Tunneling	Shovels
Backhoes (Excavators)	Draglines	Boring Machines	Soil Mix Machines
Bobcats when used as	Elevating Graders	Mucking Machines	Steam Engines
Front End Loaders	Elevator Towers	Paving Concrete Mixers	Three Drum Machines
Boring Machines	Fork Lifts	Pile Drivers	Timber Jacks
Cable Ways	Front End Loaders	Post Hole Diggers	Trench Hoes
Cement Concrete Pavers	Gradalls	Post Hole Hammers	Trenching Machines
Cherry Pickers	Hoisting Engines	Power Shovels	Truck Cranes
Concrete Batching and/or	Hoists	Pumpcrete Machines	Two or more Drum Machines
Mixing Plants on site	Lighters	Road Headers	Uke Loaders
Cranes		Rotary Drills	Waste Water Plants

Daily Rate: (per hour), Same as Group 1b.

Truck Cranes

Fork Lifts

Cherry Pickers

Combination Hoe/Loader (Case 580 type machine)

**See Attached Schedule of Wages

GROUP Ia (Boom Lengths)

Hourly added wages for boom lengths (including jib)

Over 150 feet

Over 185 feet

Over 210 feet

See Attached Schedule of Wages

Over 250 feet

Over 295 feet

Over 350 feet

These rates are applicable to cranes on roof or similar elevated positions. Engineers receiving any of the above wage rates shall be paid such rate for the full payroll period, even though the boom is shortened. (See Part One, Article VII, Sections 11, and 12).

GROUP Ib**

Master Mechanics

Foreman Mechanics

GROUP Ic**

Conventional (cable controlled) Clam Shell and Slurry Buckets

Heading Mechanics

**See Attached Schedule of Wages

GROUP II**

Asphalt Pavers	Locomotives or machines used	Spreaders
Ballast Regulators	in place thereof	Stationary Steam Boilers
Bobcats when used as Bulldozers	Mechanics, Maintenance	Swinger Engines
Bulldozers	Mulching Machines	Switch Tampers
Cal Tracks	Paving Concrete Finishing	Tampers, Self-propelled or
Cold Planers	Machines	Tractor Drawn
Concrete Mixers with side loaders	Paving Screed Machines	Tandem Scrapers
Concrete Pumps	Portable Steam Boilers	Tire Trucks (when operated by
Directional Drilling Machines	Portable Steam Generators	Employer on job site)
Edgers	Rail Anchor Machines	Track Mounted, Self-Unloading
Graders	Reclaimers	Material Movers (with dozer blade)
Grinders	Rollers	Tractors
Grout Pumps	Scrapers	York Rakes
John Henrys	Sonic or Vibratory Hammers	

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**See Attached Schedule of Wages

GROUP III**

Augers-Powered by	Heaters (power driven) (1-5)	Single Diaphragm Pumps
independent engines and	Hydraulic Saws	Syphons-Pulsometers
attached to Pile Drivers	Industrial Fork Lifts/	Track Mounted, Self-Unloading
Compressors	Chisel Trucks	Material Movers
Concrete Mixers	(hoisting not over 9 feet)	Valves Controlling Permanent Plant
Concrete Vibrators	Jackson Type Tampers	Air Steam
Conveyors	Lighting Plants	Welding Machines(s) (1-3 grouped)
Generators	Pump(s) (1-3 grouped)	Wellpoint Systems (operating)

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**See Attached Schedule of Wages

GROUP IV Assistant Engineer**

- a. Assistant Engineer: Fireman
- b. Assistant Engineer: Apprentices (other than Truck Cranes or Gradalls)
- c. Assistant Engineer: Apprentices (on Truck Cranes or Gradalls)
- d. Assistant Engineer: Daily Rate (Truck Cranes)
- e. Scow Rate

**See Attached Schedule of Wages

- Machines grouped shall be within 200 feet.
- Any machine not expressly mentioned in the schedule shall be included in the appropriate grouping.
- High Speed Electric Conveyors, (See Part One 1, Article VII, Section 3.
- **HELICOPTERS:** Whenever a helicopter is used in hoisting and lifting, it shall be manned by a member of the Local at a rate to be established, if and when such type of operation is instituted.
- **HAZARDOUS WASTE:** Engineers required to work in the HOT ZONE will receive a \$2.00 an hour wage differential.

The terms and conditions of this Agreement between the LABOR RELATIONS DIVISION—CONSTRUCTION INDUSTRIES OF MASSACHUSETTS, and the International Union of Operating Engineers Local 4 and its Branches, effective June 1, 1999, were negotiated to terminate on May 31, 2003.

The parties to this Agreement have agreed, and the Local Union membership at a special Notified Meeting on November 20, 2000 approved, a two year extension of the terms and conditions of the Contract, together with the schedule of wages appended to this signature page. The Agreement shall now continue to and include May 31, 2005.

This Agreement shall continue to be effective from year to year thereafter unless either party, at least sixty (60) days prior to May 31, 2005, or prior to May 31st in any year thereafter gives notice in writing to the other party of its intention to terminate said Agreement and request that negotiations be entered into for its alteration or amendment.

In the event that the parties hereto cannot reach an agreement least thirty (30) days prior to May 31st of any year, such party shall give notice of the failure to reach such agreement to the Federal Mediation Service and the Massachusetts Board of Conciliation and Arbitration.

WITNESS TO CONTRACT EXTENSION

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized representatives, and have affixed hereto the seal of their respective organizations, this twenty-fifth day of November, 2002.

FOR THE LABOR RELATIONS
DIVISION CONSTRUCTION
INDUSTRIES OF
MASSACHUSETTS

FOR THE UNION

JOHN D. O'REILLY, III
By:

WILLIAM P. RYAN
Business Manager

COUNSEL
Title:

LOUIS G. RASETTA
President

November 26, 2002
Date:

NORMAN A. TEED
Recording Secretary

November 25, 2002
Date:

CONTRACT EXTENSION TERMINATION

The terms and conditions of this Agreement between the FOUNDATION & MARINE CONTRACTORS ASSOCIATION OF NEW ENGLAND, and the International Union of Operating Engineers Local 4 and its Branches, effective June 1, 1999, were negotiated to terminate on May 31, 2003.

The parties to this Agreement have agreed, and the Local Union's membership at a special Notified Meeting on November 20, 2002, approved, a two year extension of the terms and conditions of this Contract, together with the schedule of wages appended to this signature page. The Agreement shall now continue to and include May 31, 2005.

This Agreement shall continue to be effective from year to year thereafter unless either party, at least sixty (60) days prior to May 31, 2005, or prior to May 31st in any year thereafter gives notice in writing to the other party of its intention to terminate said Agreement and request that negotiations be entered into for its alteration or amendment.

In the event that the parties hereto cannot reach an agreement at least thirty (30) days prior to May 31st of any year, such party shall give notice of the failure to reach such agreement to the Federal Mediation Service and the Massachusetts Board of Conciliation and Arbitration.

WITNESS TO CONTRACT EXTENSION

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized representatives, and have affixed hereto the seals of their respective organizations, this twenty-fifth day of November, 2002.

FOUNDATION & MARINE
CONTRACTORS ASSOCIATION
OF NEW ENGLAND

FOR THE UNION

P.A. O'NEILL

WILLIAM P. RYAN
Business Manager

By:

LOUIS G. RASETTA
President

PRESIDENT

Title:

NORMAN A. TEED
Recording Secretary

November 27, 2002

Date:

November 25, 2002
Date:

CONTRACT EXTENSION TERMINATION

The terms and conditions of this Agreement between the LABOR RELATIONS DIVISION OF THE ASSOCIATED GENERAL CONTRACTORS OF MASSACHUSETTS, and the International Union of Operating Engineers Local 4 and its Branches, effective June 1, 1999, were negotiated to terminate on May 31, 2003.

The parties to this Agreement have agreed, and the Local Union's membership at a special Notified Meeting on November 20, 2002, approved, a two year extension of the terms and conditions of this Contract, together with the schedule of wages appended to this signature page. The Agreement shall now continue to and include May 31, 2005.

This Agreement shall continue to be effective from year to year thereafter unless either party, at least sixty (60) days prior to May 31, 2005, or prior to May 31st in any year thereafter gives notice in writing to the other party of its intention to terminate said Agreement and request that negotiations be entered into for its alteration or amendment.

In the event that the parties hereto cannot reach an agreement at least thirty (30) days prior to May 31st of any year, such party shall give notice of the failure to reach such agreement to the Federal Mediation Service and the Massachusetts Board of Conciliation and Arbitration.

WITNESS TO CONTRACT EXTENSION

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized representatives, and have affixed hereto the seals of their respective organizations, this twenty-fifth day of November, 2002.

FOR THE LABOR RELATIONS
DIVISION OF THE ASSOCIATED
GENERAL CONTRACTORS OF
MASSACHUSETTS

FOR THE UNION

DAVID P. POWELL

WILLIAM P. RYAN
Business Manager

By:

DIRECTOR OF LABOR
RELATIONS

LOUIS G. RASETTA
President

Title:

November 26, 2002

Date:

NORMAN A. TEED
Recording Secretary

November 25, 2002
Date:

CONTRACT EXTENSION TERMINATION

The terms and conditions of this Agreement between the BUILDING TRADES EMPLOYERS ASSOCIATION OF BOSTON AND EASTERN MASSACHUSETTS, and the International Union of Operating Engineers Local 4 and its Branches, effective June 1, 1999, were negotiated to terminate on May 31, 2003.

The parties to this Agreement have agreed, and the Local Union's membership at a special Notified Meeting on November 20, 2002, approved, a two year extension of the terms and conditions of this Contract, together with the schedule of wages appended to this signature page. The Agreement shall now continue to and include May 31, 2005.

This Agreement shall continue to be effective from year to year thereafter unless either party, at least sixty (60) days prior to May 31, 2005, or prior to May 31st in any year thereafter gives notice in writing to the other party of its intention to terminate said Agreement and request that negotiations be entered into for its alteration or amendment.

In the event that the parties hereto cannot reach an agreement at least thirty (30) days prior to May 31st of any year, such party shall give notice of the failure to reach such agreement to the Federal Mediation Service and the Massachusetts Board of Conciliation and Arbitration.

WITNESS TO CONTRACT EXTENSION

IN WITNESS WHEREOF, the parties hereto have caused these presents to be signed by their duly authorized representatives, and have affixed hereto the seals of their respective organizations, this twenty-fifth day of November, 2002.

FOR THE BUILDING TRADES
EMPLOYERS ASSOCIATION OF
BOSTON AND EASTERN
MASSACHUSETTS

THOMAS J. GUNNING

By:

EXECUTIVE DIRECTOR

Title:

November 26, 2002

Date:

FOR THE UNION

WILLIAM P. RYAN

Business Manager

LOUIS G. RASETTA

President

NORMAN A. TEED

Recording Secretary

November 25, 2002

Date:

INTERNATIONAL UNION of OPERATING ENGINEERS - LOCAL #4

Wage Settlement Extension To May 31, 2005

Classification	6/1/02	12/1/02	6/1/03*	12/1/03*	6/1/04*	12/1/04*
GROUP I	\$30.57	\$31.12	\$32.20	\$33.14	\$34.31	\$35.49
Daily Rate (Per Hour)	34.37	35.04	36.25	37.32	38.64	39.96
GROUP Ia (Boom length)						
Over 150 feet	\$ 1.40	\$ 1.44	\$ 1.49	\$ 1.54	\$ 1.59	\$ 1.64
Over 185 feet	2.45	2.53	2.61	2.70	2.79	2.88
Over 210 feet	3.45	3.55	3.67	3.79	3.92	4.05
Over 250 feet	5.23	5.39	5.57	5.75	5.95	6.14
Over 295 feet	7.24	7.46	7.71	7.96	8.23	8.51
Over 350 feet	8.43	8.69	8.98	9.27	9.59	9.90
GROUP Ib	\$34.37	\$35.04	\$36.25	\$37.32	\$38.64	\$39.96
GROUP Ic	\$31.57	\$32.12	\$33.20	\$34.14	\$35.31	\$36.49
GROUP II	\$30.36	\$30.91	\$31.98	\$32.91	\$34.07	\$35.24
GROUP III	\$23.82	\$24.16	\$25.01	\$25.72	\$26.63	\$27.56
GROUP IV						
a. Fireman	\$26.90	\$27.34	\$28.29	\$29.11	\$30.14	\$31.18
b. Other than TC/Gradall	19.92	20.14	20.85	21.43	22.20	22.98
c. TC or Gradall	21.81	22.09	22.87	23.50	24.35	25.20
d. Daily Rate (TC)	23.68	24.01	24.85	25.56	26.47	27.39
e. Scow Rate	23.58	23.91	24.75	25.45	26.36	27.27

Classification	6/1/02	12/1/02	6/1/03*	12/1/03*	6/1/04*	12/1/04*
Daily Rate Differential	\$2.72	\$2.81	\$2.90	\$3.00	\$3.10	\$3.20
GROUP II	\$1.72	\$1.77	\$1.83	\$1.89	\$1.95	\$2.02
GROUP III	\$2.11	\$2.18	\$2.25	\$2.32	\$2.40	\$2.48
Tunnel Differential	4.75	4.75	4.75	4.75	4.75	4.75
Health & Welfare	3.82	4.25	4.25	4.40	4.40	4.40
Pension	0.30	0.30	0.30	0.30	0.30	0.30
Apprenticeship	3.00	3.00	3.00	3.00	3.00	3.00
Annuity	0.02	0.02	0.02	0.02	0.02	0.02
Foundation for Fair Contracting	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits	Add 2% of Wage & Benefits

Joint Labor/Management Cooperation Trust

OTHER: Dues Assessment: 1 1/4% deducted from total Wage and Benefit Package; Social and Political Action Committees, \$0.05 per hour.

*The Local may, at its option, utilize parts of these increments for increases to Health & Welfare, Pension, Annuity, Social and Political Action Committees, Dues Deduction, and the Foundation for Fair Contracting.

*HAZARDOUS WASTE: Engineers required to work in the HOT ZONE will receive a \$2.00 an hour differential.

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September 2, 2004

* Also Admitted to the
New Hampshire Bar

** Also Admitted to
the California Bar

**BY CERTIFIED MAIL, RETURN RECEIPT
REQUESTED AND FIRST CLASS MAIL**

Harold H. Penney, Jr., President
Penney Construction Corp.
85 Charles Street
Bridgewater, MA 02324

Re: International Union of Operating Engineers Local 4 Trust Funds

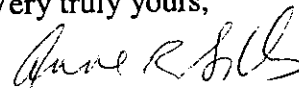
Dear Ms. Penney:

This office represents the I.U.O.E. Local 4 Trust Funds for purposes of collecting delinquent fringe benefit contributions. I have been advised that Penney owes the Funds \$17,023.15 in unpaid contributions and interest for work performed between August, 2003 and January, 2004. This letter constitutes a demand for payment of these delinquent contributions and interest.

Please be advised that failure to pay will result in litigation in which case Penney will be liable for liquidated damages and attorney's fees in addition to the contributions and interest.

Thanking you in advance for your prompt attention to this matter, I am

Very truly yours,


Anne R. Sills

cc: Gina Alongi
Jim Bucci

ARS/ars&yt
3118 04-370/company.doc



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Sent To 3118 04-370/comp pay doc Street, Apt. No. City, State ZIP+4 Over. Engineers Local 4 Trust Fund PS Form 3800, June 2002	Postage Certified Fee Return Receipt Fee (Endorsement Required) Restricted Delivery Fee (Endorsement Required) Total Postage & Fees
Postmark Here	\$ \$ \$ \$ \$

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PS Form 3811, February 2004

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